

## REMARKS

### Summary

Claims 1-25 are pending and all of the claims were rejected in the present Office Action. Claims 1, 5-15 and 21-25 have been amended. No new matter has been introduced.

### Rejections

#### **35 U.S.C. § 102 (e)**

Claim 25 was rejected under 35 U.S.C. § 102 (e) as being anticipated by Davies et al. (US 6,753,790; "Davies"). The Applicants have amended Claim 25, and elsewhere, to clarify the type of communication system that is used. Support for this amendment is found in [0017] of the application as filed, where the performance of the radio frequency (RF) communications system claimed is contrasted with that of an infrared communications system.

In making an anticipation rejection, the combination of a plurality of distinct embodiments to make the rejection as there is no single embodiment that actually shows the presently claimed arrangement. For example, Figs. 2 and 3 of Davies are clearly different embodiments, having different combinations of elements. Figs. 4 and 5 are also distinct embodiments (see Davies, col. 4, lines 8-34). The "operating modes" as identified by the Office Action clearly refer to a choice between a radio frequency (RF) mode and an infrared (IR) operating mode. There is no infrared communications mode in the claimed device. Thus, both the first and second modes are RF modes. There

Serial No. 10/568,197  
Amendment dated December 9, 2009  
Reply to Final Office Action of July 9, 2009

is also no suggestion of a safety-critical command set and a non-safety critical command set.

As such, all of the elements and limitations in the amended Claim 1 are not found in a single embodiment of the reference, and the claim is allowable.

**35 U.S.C. § 103(a)**

Claims 1-2, 4, 6-9, 13, 16, 19, and 24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Davies et al. (US 6,753,790; "Davies") in view of Rodriguez et al. (US 7,120,922; "Rodriguez").

The Applicants respectfully submit that amended Claim 1, which now specifies a radio frequency (RF) communication system, is not obvious in view of the references. The two modes which are said to be taught by the combination of the references are a radio frequency communications mode and an infrared communications mode. This is not the arrangement taught by amended Claim 1, where there is only a communications mode (RF). There are, however a plurality of command sets used depending on whether the reception parameter for the communications mode is greater than or less than a threshold.

**Conclusion**

Claims 1-25 are pending.

For at least the reasons set forth above, the Applicants respectfully submit that the pending claims are allowable and look forward to the early issuance of a Notice of Allowance.

Serial No. 10/568,197  
Amendment dated December 9, 2009  
Reply to Final Office Action of July 9, 2009

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,



Sid Bennett  
Registration No. 53,981  
Agent for Applicants

BRINKS HOFER GILSON & LIONE  
P.O. BOX 10395  
CHICAGO, ILLINOIS 60610  
(312) 321-4200